

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of:

**Joseph H. Matthews III**

Serial No.: 10/825,299

Filed: April 16, 2004

For: User Friendly Remote System Interface

Atty. Docket No.: 003797.00923

Group Art Unit: 2179

Examiner: Huynh, Ba

Confirmation No.: 7755

**RENEWED PETITION UNDER 37 C.F.R. § 1.183**

Mail Stop Petition  
Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

This paper is submitted in response to the Petition Decision mailed May 13, 2008, and further to Applicants' Petition Under 37 C.F.R. § 1.47(a) filed February 15, 2008. Applicants hereby petition the Director to suspend the rules and accept the enclosed Declaration Under 37 C.F.R. § 1.131 (the Declaration), executed by co-inventors Joseph H. Matthews III and David Barnes, on behalf of themselves and co-inventor David Plummer, who refused to join in the Declaration.

The Director is authorized to charge any fees required in connection with this filing to our Deposit Account 19-0733.

**SUPPORTING DOCUMENTS**

Submitted herewith are the following:

- Exhibit A – The supporting declaration of Mr. Brian Brisnehan, an attorney at Banner & Witcoff, Ltd.
- Exhibit B – An e-mail string between Mr. Brisnehan and Ms. Michelle Masseau, a

paralegal at Microsoft Corp.

- Exhibit C – An e-mail string between Mr. Brisnehan and Mr. Plummer, dated January 16, 2008.
- Exhibit D – An e-mail string between Mr. Brisnehan and Mr. Plummer, dated January 28, 2008.
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#### **STATEMENT OF FACTS**

As demonstrated in the following statements and supporting documents, co-inventor Mr. David Plummer has refused to sign the Declaration Under 37 C.F.R. § 1.131 (the Declaration) submitted herewith:

1. The last known address of Mr. David Plummer is 25822 NE 25th St, Redmond, WA 98053. (Exhibit B)
2. On January 9, 2008, Mr. Brian Brisnehan, an attorney at Banner & Witcoff, Ltd., requested and received via e-mail from Michelle Masseur, a paralegal at Microsoft Corp., the last known addresses and contact telephone numbers for the co-inventors of the instant application. (Exhibits A and B) The personal information of the other co-inventors, David Barnes and Joseph Matthews, has been redacted from Exhibit B.
3. On January 9, 2008, Mr. Brisnehan spoke with co-inventor Joseph Matthews by phone and obtained Mr. Plummer's e-mail address, [dave@xeriton.com](mailto:dave@xeriton.com). (Exhibit A)
4. On January 16, 2008, Mr. Brisnehan, sent an e-mail including the Declaration, the exhibits associated with the Declaration, and related materials to Mr. Plummer's email address and requested that Mr. Plummer review and sign the Declaration. (Exhibits A and C)

5. On January 16, 2008, Mr. Plummer replied to Mr. Brisnehan's e-mail, confirming receipt of the Declaration, inquiring about certain language of the Declaration and indicating that he would not sign the Declaration in its current form. (Exhibits A and C)
6. On or about January 21, 2008, Mr. Brisnehan tried unsuccessfully at least twice to contact Mr. Plummer by phone to discuss his refusal to sign the Declaration. (Exhibit A)
7. On January 28, 2008, Mr. Brisnehan, sent a second e-mail to Mr. Plummer regarding the Declaration and asking Mr. Plummer to contact him with any questions or concerns that Mr. Plummer had if he was still unwilling to sign the Declaration. (Exhibits A and D)
8. On January 28, 2008, Mr. Plummer replied to Mr. Brisnehan's second e-mail requesting that Mr. Brisnehan address his previous questions and concerns regarding the Declaration via e-mail. (Exhibits A and D)
9. On January 28, 2008, Mr. Brisnehan, sent a third e-mail to Mr. Plummer addressing Mr. Plummer's questions and concerns about the Declaration and once again requesting that Mr. Plummer review and sign the Declaration. (Exhibits A and D)
10. On January 28, 2008, Mr. Plummer replied to Mr. Brisnehan's third e-mail, indicating that he would not sign the Declaration. (Exhibits A and D)
11. Mr. Plummer has continuously maintained his refusal to sign the Declaration. (Exhibit A)

Because Applicants have demonstrated that co-inventor David Plummer refused to join in signing the Declaration, it is respectfully submitted that this petition is proper under 37 C.F.R. § 1.183 and M.P.E.P. § 715.04 and should be granted accordingly.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Date: May 30, 2008

By: /Brian J. Brisnchan/  
Brian J. Brisnchan, Reg. No. 60,462  
Banner & Witcoff, LTD.  
1100 13<sup>th</sup> Street N.W.  
Suite 1200  
Washington, DC 20005-4051  
(202) 824-3000 (Telephone)  
(202) 824-3001 (Facsimile)